STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)			
KEVIN JOHNSON,)			
Complainant, and THE WACKENHUT GROUP a/k/a G4S WACKENHUT, Respondent.)))))	CHARGE NO(S): EEOC NO(S): ALS NO(S):	2008SF3150 N/A 09-0409	
NOTICE				
You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8b-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.				
STATE OF ILLINOIS HUMAN RIGHTS COMMISSION)) E	ntered this 23 rd day of Au	gust 2010	
		N. KEITH CHAMBE EXECUTIVE DIREC		

STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)
KEVIN JOHNSON,	}
Complainant,) Charge No. 2008SF3150) EEOC No. N/A) ALS No. 09-409
and	}
THE WACKENHUT CORP. a/k/a G4S WACKENHUT,))) Judge Reva S. Bauch
Respondent.)

RECOMMENDED ORDER AND DECISION

This matter is before the Commission on the parties' Stipulation to Dismiss without Prejudice ("Stipulation") for lack of jurisdiction. This matter is ready for ruling.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

Determination

The Complaint was untimely filed. Thus, the Commission has no jurisdiction over it, and it must be dismissed, without prejudice. The underlying Charge is still active at the Department and should not be dismissed.

Findings of Fact

- On May 5, 2008, Complainant filed a Charge at the Department against the Respondent.
- On May 10, 2008 and May 13, 2008, respectively, the parties executed an
 extension agreement with the Department agreeing to extend the 365-day time
 limit for the Department's investigation by 300 days.

- Because the Department had sent a notice advising Complainant that the last date for filing a Complaint was August 3, 2009, Complainant filed his Complaint.
- 4. The Complaint was filed on July 29, 2009.
- 5. The Department's letter/notice was in error.
- 6. The Charge is still pending at the Department.
- Because of the pending investigation at the Department, both parties agree to dismissal of the instant Complaint at this time, without prejudice, and therefore, filed a Stipulation.

Conclusions of Law

- Complainant is an individual claiming to be aggrieved by a violation of the Illinois Human Rights Act, ("Act") 775 ILCS 5/1-102 et seq.
- 2. The Commission has the authority to determine whether jurisdiction over the matter exists.
- Section 7A-102(G)(2) provides that an aggrieved party may individually file a
 complaint with the Commission between 365 and 455 days after the charge is filed,
 or such longer period agreed to in writing by all parties.
- 4. An aggrieved party may not file a complaint outside the 900-day time period provided by 7A-102(G)(2) of the Act.
- 5. If an aggrieved party files a complaint either before or after the 90-day period granted by 7A-102(G)(2), that complaint is a nullity and the Commission has no jurisdiction over it.
- The Complaint is not timely because Complainant filed it before the 90-day time period had begun.
- 7. Because Complainant did not file his Complaint in a timely fashion, within the 90-day period provided by 7A-102(G)(2) of the Act, the Commission does not have jurisdiction over the Complaint.

Discussion

The parties' request the Commission dismiss the Complaint, without prejudice,

because the Complainant failed to file his Complaint within the 90-day window in

accordance with 775 ILCS 5/7A-102(G)(2). The Commission has considered numerous

cases in which aggrieved parties have filed their own complaints outside the 90-day

period. Whether those parties have filed their complaints after the period has begun or

before the period has begun, the Commission has found the attempted filings to be

jurisdictionally deficient. David v. Human Rights Com'n, 286 III App3d 508 (1997); see

also Brumzick and Intern'l Paper Co., IHRC, ALS No. 5514(s), June 24, 1992.

Recommendation

I recommend that the Commission dismiss the Complaint, without prejudice.

However, since the Charge is still pending at the Department, the Charge should remain

active, and not be dismissed.

HUMAN RIGHTS COMMISSION

BY: _

REVAS. BAUCH

DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE

ADMINISTRATIVE LAW DIVISION

ENTERED: October 27, 2009

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